IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CRIMINAL APPLICATION NO. 2957 OF 2007

Shri Suresh Shantaram Joshi. ... Applicant.

V/s.

The State of Maharashtra. ... Respondent.

A.H.Ponda for the applicant.

Ms.M.H.Mhatre, APP for the State

R.D.Suryawanshi for the original complainant.

CORAM: V.C.DAGA, J.

DATED: 14th September 2007.

P.C.:

. Heard learned counsel for the applicant and learned A.P.P. for the State and learned counsel for the original complainant.

2. By this application, the applicant is seeking bail in connection with CR.No.I-109/2006 registered with Vishnunagar Police Station, Kalyan for the offences punishable under sections 307, 129B, 385, 506(2), 109 of Indian Penal Code and sections 25, 27 of the Arms Act and sections 37, 135, 142 of the Bombay Police Act.

3. On 7th August, 2006, the complainant Pradeep Madhu Joshi lodged First Information Report that on 5th August, 2006 he received call from one Fauji, who instructed him to contact Santosh Anna to which he declined. Thereafter on 7th August, 2006, two unknown assailants came on a motor cycle to the office of the complainant and fired two rounds in an attempt to kill him. There was no injury sustained by him. The F.I.R. was registered and investigation was commenced.

4. The Sessions Court has already granted bail to co-accused, viz. Rupesh Patil and Budharam Ganpat Sarnobat vide separate orders dated 3rd January, 2007 passed in Criminal Bail Application Nos.9/2007 and 916/2006 respectively. I was taken through the F.I.R. and statement of Navnath Gangaram Sutar recorded under section 164 of Cr.P.C., wherein he has stated that he had an occasion to see Vikas Mhatre, Manik Mhatre, Rupesh Patil, Mahesh Chavan, Suresh Joshi etc. coming to the house of Budharam and Bobby. They used to hold meetings near the tree standing in front of the house of Budharam. At that time, he had seen Mohan Kapade @ Inverter attending such meetings. He has further stated that some secret discussions used to take place in such meetings.

5. The reading of the above statement, which is sought to be relied by the prosecution, it is clear that role played by Rupesh Patil, Budharam is identical with that of the present applicant. That is how, the applicant has set up his case to seek bail on the ground of parity.

6. The learned A.P.P., appearing for the State tried to oppose the bail application, however, he could not take her submission to the logical end. At the end, she conceded that the ground of parity would be very much available.

7. Mr.Suryawanshi, learned counsel appearing for the original complainant is also heard since he wanted to assist the Court. However, when he was asked why ground of parity would not be available to the applicant, he even could not take his submissions to the logical end and, ultimately, conceded saying ground of parity would be available to the applicant.

8. In the above circumstances, I am inclined to grant bail to the applicant on parity, subject to the following conditions:

(a) The applicant, arrested in connection with C.R.No.I-109/2006 registered with Vishnu Nagar Police Station, Dombivli, district-Thane shall be enlarged on bail in the sum of Rs.25,000/- with one or two sureties to make up the said amount.

(b) The applicant shall report to the concerned Police Station once in a week, i.e. on every Friday between 3.00 to 5.00 p.m. till conclusion of the trial.

(c) The order of bail will be given effect only after the applicant furnishes to the investigating officer the details about his place of residence and address where he proposes to stay after he is enlarged on bail. The applicant will not change his residential address thereafter till the conclusion of trial without prior intimation to the investigating officer.

(d) The applicant shall not directly or indirectly, make any inducement or threat or

pressurise any prosecution witnesses and shall not in any manner tamper with the prosecution evidence.

(e) The applicant shall co-operate with the investigating agency for disposal of the case. It is needless to mention that breach of any of the conditions by the applicant shall result in cancellation of bail.

(f) Any observation made in this order shall not be construed as finding or expression on merits of the case at the time of trial.

9. Application stands disposed of accordingly.

. **JUDGE**